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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/349,735	07/08/1999	JAMES MCKEETH	5949-11	7062

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KNOBBE MARTENS OLSON & BEAR LLP
620 NEWPORT CENTER DRIVE
SIXTEENTH FLOOR
NEWPORT BEACH, CA 92660

EXAMINER

CHUONG, TRUC T

ART UNIT PAPER NUMBER

2179

DATE MAILED: 11/03/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/349,735

Applicant(s)

MCKEETH, JAMES

Examiner

Truc T Chuong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 0730.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8, 14-16 and 19-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 14-16, 19-22, and 23-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is responsive to Request for Reconsideration, filed 07/30/04.
2. Claims 1-5, 8, 14-16, 19-22, and 23-40 are pending in this application. Claims 1, 14, 19, 22, 25, and 33 are independent claims. No claims have been amended, and no claims have been added or cancelled since the last Office Action. This action is made final.
3. The rejection under the 35 U.S.C. section 103(a) is not included in this action. It can be found in the prior Office Action.

Response to Arguments

4. Applicant's arguments filed 07/30/04 have been fully considered but they are not persuasive.

Applicant has argued the following statements, and Examiner disagrees for following reasons:

- a. Claims 1, 14, 19, and 22, Applicant has argued that the limitations "performing an initial action with respect to the electronic device responsive to receiving the activated hypertext link; and wherein the initial action is one of downloading a device driver identified with a hardware component of the electronic device, generating a disk image, or installing a service pack." do not teach or suggest on both Chiles and Kroening.

Examiner disagrees with the Applicant because the limitations as stated above are previously deleted (see Amendment B, paper No. 15); therefore, the argument will not be considered.

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- b. Chiles fails to teach the limitation from claim 1: “presenting via the electronic device a graphical representation includes at least on interactive control for activating a hypertext link.”

Examiner disagrees with the Applicant because Chiles clearly shows that “If the update for the product is to occur through a web site, a web browser, residing at the client computer, is launched by the client updating application and a URL of that site is passed to the browser. The user then interacts, through the browser, with the web site to update the product. Once the script- or web-based update successfully concludes, the client updating application appropriately updates the locally stored version number of the installed software and schedules the next update accordingly.” (sic, emphases are added, col. 3 lines 58-76, and col. 4 lines 51-65).

- c. Figs. 14A-14D of Chiles do not show the GUI is graphical representations of a text markup language.

Examiner disagrees with the Applicant because Chiles clearly shows that to configure application 500, which will become evident from the screen displays shown in fig. 14A-14D (col. 12 lines 10-15), and updating application 500 can perform an update either on a script-basis or through a custom web site (col. 12 lines 34-39). It clearly means that 14A-14D are generated using HTML.

- d. There is no suggestion or motivation to combine Chiles and Kroening because the reason for creating a disk image in Kroening to help the mass production of computer

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system having particular software, and a disk image of Chiles is for monitoring software configuration process.

Examiner disagrees with the Applicant because Kroening clearly teaches “to compare an image of the baseline software configuration with the desired software configuration to determine a set of changes to be made to the baseline software configuration, and computer readable code for causing a computer to generate an image of the custom software configuration. The computer readable medium further comprises a computer readable program code for causing a computer to generate an image of the custom software configuration by incorporating the image of the set of changes with the image of the baseline configuration.” (sic, emphases are added, col. 2 lines 39-48). It means that there are some changes to the baseline software configuration by updating the configuration to reflect the changes, which is similar to updating the software of Chiles; and Kroening uses Microsoft Windows Operation System as based to run all of the applications including the image builder 20 (col. 5 line 63-col. 6 line 22), which the image is passed from the storage device to an image server via an interface (col. 6 lines 34-38), and it is also well known in the art that a hard drive, a floppy disk, a recordable CD, or a zip drive (col. 6 lines 45-50) will be displayed on the interface if using the Microsoft Windows; therefore, It would have been obvious at the time of the invention that a person with ordinary skill in the art would want to create the disk image of Kroening in the updating software interface of Chiles for an easy to monitor software configuration process.

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Moreover, the Examiner kindly reminds the Applicant that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both of Chiles and Kroeing are in the same field of the invention and generating the disk image of Kroening having the feature of diagnose a problem as concerned by the Applicant.

All other arguments are related or similar to those answers above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Truc T Chuong whose telephone number is 571-272-4134. The examiner can normally be reached on M-Th and alternate Fridays 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather R. Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Truc T. Chuong

10/31/04

BA HUYNH
PRIMARY EXAMINER